



Effective July 14, 2014

May 2, 2014

Protecting, maintaining and improving the health of all Minnesotans

Adam Bertram

RE: MDH File Number: BAC12096

Dear Mr. Bertram:

Based on the facts and law in this matter as described in the enclosed Staff Determination, the Minnesota Department of Health (MDH) has determined that you provided body art services without a license, in violation of Minnesota Statutes, section 146B.08, subdivision 3(3), and Minnesota Statutes, section 146B.03, subdivision 1. Therefore, the Department is issuing you a reprimand and imposing a civil penalty in the amount of \$707. This action is authorized pursuant to Minnesota Statutes, section 146B.08, subdivision 4.

You may either accept the discipline as stated herein or you may appeal. If you accept, please pay the assessed civil penalty by check made payable to "Treasurer, State of Minnesota." If you wish to appeal the discipline, you must provide a written statement as to which facts are in error and the grounds for your appeal. Your written statement must be received at MDH within 30 days from the date this letter is received by you. During that 30-day period, you also have the right to challenge this decision in a contested-case hearing, as provided under Minnesota Statutes, Chapter 14. Requests for a hearing should be made in writing and must include specific grounds for challenging the Department's decision.

You must provide a written statement of your decision to either accept or appeal the discipline outlined in the enclosed Determination, within 30 days of your receipt of this letter, to:

Anne Kukowski, Assistant Director of the Health Occupations Program
Minnesota Department of Health
PO Box 64882
Saint Paul, MN 55164-0882

You may also deliver your request to 85 East Seventh Place, Suite 220, Saint Paul, MN; or fax it to Anne Kukowski at (651)201-3839. If you have any questions about this matter, please contact Chee Lee at (651)201-3728.

Sincerely,

A handwritten signature in cursive script that reads "Darcy Miner".

Darcy Miner, Director
Compliance Monitoring Division

Enclosure

cc: Anne Kukowski, Acting Director of the Health Occupations Program

**HEALTH OCCUPATIONS PROGRAM
MINNESOTA DEPARTMENT OF HEALTH**

**A Determination In the Matter of
Adam R. Bertram
Body Art Technician**

AUTHORITY

1. The Minnesota Department of Health (MDH) has authority to discipline body art technicians for violations of law under Minnesota Statutes, section 214.131, subdivision 2; and Minnesota Statutes, section 146B.08, subdivision 3. Pursuant to Minnesota Statutes, section 146B.08, subdivision 4, the types of discipline MDH may impose include refusal to grant a license or any reasonable lesser action.
2. Pursuant to Minnesota Statutes, section 146B.08, subdivision 4(5), MDH may also impose a civil penalty, for each violation, not exceeding \$10,000, that deprives the licensee of any economic advantage gained by the violation and reimburses MDH for costs of the investigation.
3. Pursuant to Minnesota Statutes, section 146B.08, subdivision 3(3), a violation of any provision in the body art statute is a ground for disciplinary action.
4. Pursuant to Minnesota Statutes, section 146B.03, subdivision 1, effective January 1, 2011, no individual may perform tattooing unless the individual holds a valid technician license issued by MDH.

FINDINGS OF FACT

1. On December 16, 2011, MDH received a complaint that Adam R. Bertram (Hereinafter "Technician") was providing tattoo services at Three Dragons Lair in Owatonna, Minnesota, without a body art license.
2. On December 20, 2011, a Notice of Illegal Practice was sent to Technician.
3. On December 21, 2010, MDH did receive a body art license application from Technician.
4. On January 25, 2011, and March 16, 2011, MDH sent emails to Technician advising him that his application could not be processed as it was incomplete. The email compiled a list of things Technician needed to provide to MDH in order to process the application. The list included verification of experience. The verification of experience is evidence of 2,080 hours of tattooing in the past five years. Minnesota Statutes, section 146B.03,

subdivision 10, repealed in 2012, required evidence of 2,080 hours of tattooing to allow an individual to be "grandfathered" in.

5. On May 2, 2011, MDH sent Technician a third notice but this time it was by letter. The letter advised the Technician that to date MDH had not yet receive his verification of experience and therefore his application would not be processed as it was incomplete.
6. On December 20, 2011, Technician faxed to MDH his verification of experience. The verification of experience Technician provided ranged from July 2010 to August 2011.
7. Technician was issued a full body art technician tattoo license effective January 3, 2012.
8. On January 23, 2014, MDH sent Technician a letter requesting Informed Consent forms from September 2011 to December 2011. On February 24, 2014, MDH received the forms from Technician by mail.
9. Based on information from the log Technician faxed over to MDH, Technician provided a minimum of 148 tattoo procedures from January 2011 to August 2011. Technician provided a minimum of 19 tattoo services throughout January 2011, 19 tattoo services throughout February 2011, 18 tattoo services throughout March 2011, 18 tattoo services throughout April 2011, 22 tattoo services throughout May 2011, 18 tattoo services in June 2011, 17 tattoo services throughout July 2011, and 17 tattoo services throughout August 2011. Based on the Informed Consent forms Technician mailed to MDH, Technician provided 45 tattoo procedures from October 2011 to December 2011. Technician provided 22 tattoo procedures throughout October 2011, 15 tattoo procedures throughout November 2011, and 8 tattoo procedures throughout December 2011.

CONCLUSION

1. Technician did not comply with the requirements under Minnesota Statutes, section 146B.03, subdivision 1. Technician performed body art services between January 2011 through December 2011, but did not obtain licensure until January 3, 2012.

DETERMINATION

1. Technician is hereby reprimanded and assessed a civil penalty in the amount of \$707, which deprives Technician of the economic advantage gained by the violation and reimburses MDH for costs of the investigation.
 - Technician may pay the \$707 civil penalty in monthly installments for up to 7 months after the effective date of this action. If Technician chooses to make installments, he must notify MDH in writing about his intentions, including how many installments he intends to make, in what amount, and over which time period. Technician must send this information to: Health Occupations Program,

PO Box 64882, Saint Paul, MN 55164-0882, within 30 days of receipt of this document.

- Each payment will be made by check to "State of Minnesota, Treasurer," and mailed to Health Occupations Program, PO Box 64882, Saint Paul, MN 55164-0882, or any other address specified by MDH. Each payment is due by the last day of each month; however, Technician may prepay at any time.
- The penalty may be referred to the Minnesota Collection Enterprise (MCE), a part of the Minnesota Department of Revenue, or any other source for collection, if Technician misses a monthly payment by 14 calendar days after the established deadline. When this Order for a penalty becomes public and MDH refers the matter to MCE, MCE is authorized by Minnesota Statutes, section 16D.17, to obtain a judgment against Technician without further notice or proceedings.